

REMARKS

Applicant have amended their elected claims to better clarify the invention.

Independent claims 1, 13, and 25, are amended herein to recite an accessor comprising a lifting servo section and a first gripper and a second gripper disposed on said lifting servo section.

Support can be found in the Specification on Page 6 at Lines 12 through 19, and in FIG. 2 which shows accessor 210 comprising lifting servo section 212 and first gripper 216 disposed on lifting servo section 212 and second gripper 218 disposed on lifting servo section 212.

Claims 3, 15, and 27, are amended to recite a data storage and retrieval system comprising a first accessor, and a second accessor, wherein said first accessor comprises a lifting servo section and a first gripper and a second gripper disposed on said lifting servo section. The Specification provides, in pertinent part:

Applicants' invention comprises a method to provide selectable redundant accessor availability in an automated data storage library, such as library 100. Applicants' library includes a first accessor. In certain embodiments, the first accessor comprises two or more grippers, such as grippers 216 and 218.

See, Specification at Page 12 / Line 21 - Page 13 / Line 2.

No new matter has been entered. Reexamination and reconsideration of the application, as amended, is respectfully requested.

Claims 1, 3-4, 6, 8-9, 11, 13, 15-16, 18, 20-21, 23, 25, 27-28, 30, 32-33, and 35, stand rejected under 35 USC 102(e) as being anticipated by Plutt (U.S. Pat. No. 6,591,164).

Claims 2, 5, 7, 10, 12, 14, 17, 19, 22, 24, 26, 29, 31, 34, and 36, stand rejected under 35 USC 103(a) over Plutt in view of Grobler (U.S. Pat. No. 6,799,084).

Plutt teaches a storage library system comprising one or more redundant robots

disposed therein. Col. 1 / Lines 41-55. Each of Plutt's robots comprise one picker assembly 201. Col. 3 / Lines 30-48.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.Cir. 1987); MPEP 2131. Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.Cir. 1989).

Plutt nowhere teaches or suggests a data storage and retrieval system comprising an accessor comprising a lifting servo section and a first gripper and a second gripper disposed on said lifting servo section, as recited in Applicants' independent claims 1, 3, 13, 15, 25, and 27, as amended herein. This being the case, Applicants respectfully submit that claims 1, 3, 13, 15, 25, and 27, as amended herein are not anticipated by Plutt.

Claims 4-12 depend, directly or indirectly, from claim 3. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claims 4-12, as amended herein, include all the elements of claim 3 as amended herein. Applicants respectfully submit that claim 3, as amended herein, is not anticipated Plutt for the reasons discussed hereinabove. This being the case, Applicants respectfully submit that claims 4-12, as amended herein, are not anticipated by Plutt.

Claims 16-24 depend, directly or indirectly, from claim 15. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all

the limitations of the claim to which it refers.” Therefore claims 16-24, as amended herein, include all the elements of claim 15 as amended herein. Applicants respectfully submit that claim 15, as amended herein, is not anticipated Plutt for the reasons discussed hereinabove. This being the case, Applicants respectfully submit that claims 16-24, as amended herein, are not anticipated by Plutt.

Claims 28-36 depend, directly or indirectly, from claim 27. Under 35 U.S.C. § 112, fourth paragraph, “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.” Therefore claims 28-36, as amended herein, include all the elements of claim 27, as amended herein. Applicants respectfully submit that claim 27, as amended herein, is not anticipated Plutt for the reasons discussed hereinabove. This being the case, Applicants respectfully submit that claims 28-36, as amended herein, are not anticipated by Plutt.

Grobler teaches a data vending system comprising a data depot, a data dispensing device, a recordable data carrier, and a database. Col. 1/Line 60 through Col. 2 / Line 5. Grobler nowhere teaches or suggests a data storage and retrieval system comprising an accessor comprising a lifting servo section and a first gripper and a second gripper disposed on said lifting servo section, as recited in Applicants’ independent claims 1, 3, 13, 15, 25, and 27, as amended herein.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Neither Plutt, nor Grobler, singly or in combination, teach or suggest a data storage and retrieval system comprising an accessor comprising a lifting servo

section and a first gripper and a second gripper disposed on said lifting servo section, as recited in Applicants' independent claims 1, 3, 13, 15, 25, and 27, as amended herein.

Plutt actually teaches away from Applicant's claims 1, 3, 13, 15, 25, and 27, as amended herein. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference . . . would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553 (Fed.Cir. 1994). One of ordinary skill in the art following the teachings of Plutt would find motivation to use multiple robots each comprising a single gripper. One of ordinary skill in the art would find no motivations to use an accessor comprising two grippers, as recited by Applicants' claims 1, 3, 13, 15, 25, and 27, as amended herein.

"If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03; *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988). Claims 2 depends from claim 1. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claim 2, as amended herein, includes all the elements of claim 1, as amended herein. Applicant respectfully submits that claim 1, as amended herein, is non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claim 2, as amended herein, is non-obvious over the teachings of Plutt and Grobler.

Claims 5, 7, 10, and 12, depend, directly or indirectly, from claim 3. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claims 5, 7, 10, and 12,

as amended herein, include all the elements of claim 3, as amended herein. Applicants respectfully submit that claim 3, as amended herein, is non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claims 5, 7, 10, and 12, as amended herein, are non-obvious over the teachings of Plutt and Grobler.

Claims 14 depends from claim 13. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claim 14, as amended herein, includes all the elements of claim 13, as amended herein. Applicant respectfully submits that claim 13, as amended herein, is non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claim 14, as amended herein, is non-obvious over the teachings of Plutt and Grobler.

Claims 17, 19, 22, and 24, depend, directly or indirectly, from claim 15. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claims 17, 19, 22, and 24, as amended herein, include all the elements of claim 15, as amended herein. Applicants respectfully submit that claim 15, as amended herein, is non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claims 17, 19, 22, and 24, as amended herein, are non-obvious over the teachings of Plutt and Grobler.

Claims 26 depends from claim 25. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claim 26, as amended herein, includes all the elements of claim 25, as amended herein. Applicant respectfully submits that claim 25, as amended herein, is

non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claim 26, as amended herein, is non-obvious over the teachings of Plutt and Grobler.

Claims 29, 31, 34, and 36, depend, directly or indirectly, from claim 27. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore claims 29, 31, 34, and 36, as amended herein, include all the elements of claim 27, as amended herein. Applicants respectfully submit that claim 27, as amended herein, is non-obvious over the teachings of Plutt and Grobler. This being the case, Applicants further respectfully submit that claims 29, 31, 34, and 36, as amended herein, are non-obvious over the teachings of Plutt and Grobler.

Having dealt with all of the outstanding objections and/or rejections of the claims, Applicants submit that the application as amended is in condition for allowance, and an allowance at an early date is respectfully solicited. In the event there are any fee deficiencies or additional fees are payable, please charge them, or credit an overpayment, to our Deposit Account No. 502262.

Respectfully submitted,



Dale F. Regelman, Ph.D.
Attorney for Applicants
Reg. No. 45,625

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on this 16th day of November, 2006, the Amendment A is being filed via the Web Enabled Patent Filing System (EFT-WEB).

By: 

LAW OFFICE OF
DALE F. REGELMAN, P.C.
4231 S. Fremont Street
Tucson, Arizona 85714

TEL 520-741-7636
FAX 520-746-9114